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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Afghanistan, Albania, Algeria, Andorra, Argentina, Austria, Bangladesh, Belgium, Bolivia, Bosnia and Herzegovina, Botswana, Canada, Chile, Costa Rica, Croatia, Denmark, Djibouti, Egypt, Finland, France, Germany, Greece, Guyana, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kuwait, Latvia, Liechtenstein, Luxembourg, Malaysia, Monaco, Morocco, Netherlands, Norway, Oman, Pakistan, Portugal, Qatar, Saudi Arabia, Slovenia, Spain, Sweden, Tunisia, Turkey, United Arab Emirates, United States of America and Uruguay: draft resolution

Rape and abuse of women in the areas of armed conflict in the former Yugoslavia

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, 1/ the International Covenants on Human Rights, 2/ the International Convention on the Prevention and Punishment of the Crime of Genocide, 3/ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 4/ the Convention on the

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1/ Resolution 217 A (III).

2/ Resolution 2200 A (XXI), annex.

3/ Resolution 260 A (III).

4/ Resolution 39/46, annex.

Elimination of All Forms of Discrimination against Women, 5/ the Convention on the Rights of the Child 6/ and instruments of human rights and international humanitarian law, including the Geneva Conventions of 12 August 1949 7/ and the Additional Protocols thereto of 1977, 8/

Recalling its resolution 3074 (XXVIII) of 3 December 1973, entitled "Principles of international cooperation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity", as well as Commission on Human Rights resolution 1994/77 of 9 March 1993 entitled "Rape and abuse of women and children in the territory of the former Yugoslavia", General Assembly resolutions 48/143 of 20 December 1993 and 49/205 of 23 December 1994, both entitled "Rape and abuse of women in the areas of armed conflict in the former Yugoslavia", and relevant resolutions of the Commission on the Status of Women,

Reaffirming the relevant Security Council resolutions, in particular resolution 798 (1992) of 18 December 1992, in which, inter alia, the Council strongly condemned those acts of unspeakable brutality,

Welcoming the initialling of the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto 9/ by the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) and other parties thereto on 21 November 1995, in Dayton, Ohio,

Noting with deep concern all reports of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, regarding rape and abuse of women in the territory of the former Yugoslavia, particularly in the Republic of Bosnia and Herzegovina,

Convinced that this heinous practice constitutes a deliberate weapon of war in fulfilling the policy of ethnic cleansing carried out by Serbian forces in the Republic of Bosnia and Herzegovina, and noting General Assembly resolution 47/121 of 18 December 1992, in which the Assembly stated, inter alia, that the abhorrent policy of ethnic cleansing was a form of genocide,

Desirous of ensuring that persons accused of authorizing, aiding and perpetrating rape and sexual violence as a weapon of war in the areas of armed conflict in the former Yugoslavia will be brought to justice without further delay by the International Tribunal for the Prosecution of Persons responsible

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5/ Resolution 34/180, annex.

6/ Resolution 44/25, annex.

7/ United Nations Treaty Series, vol. 75, Nos. 970-973.

8/ Ibid., vol. 1125, Nos. 17512 and 17513.

9/ A/50/770-S/1995/999, attachment.

for Serious Violations of International Humanitarian Law committed in the Territory of the Former Yugoslavia since 1991, where appropriate,

Underlining, in this context, the need for the protection of the rape victims and the provision of effective guarantees of privacy and confidentiality of the rape victims, desirous of facilitating their participation in the proceedings of the Tribunal, and ensuring that further traumatization will be prevented,

Deeply alarmed at the situation facing victims of rape in armed conflicts in different parts of the world and any use of rape as a weapon of war, in particular in the Republic of Bosnia and Herzegovina,

Noting with appreciation the efforts of Governments and the work of the United Nations High Commissioner for Refugees, the United Nations Educational, Scientific and Cultural Organization, humanitarian organizations, and non-governmental organizations aimed at supporting the victims of rape and abuse and alleviating their suffering,

Welcoming the Secretary-General's report of 29 August 1995 10/ pursuant to resolution 49/205,

1. Strongly condemns the abhorrent practice of rape and abuse of women and children in the areas of armed conflict in the former Yugoslavia, which constitutes a war crime;

2. Expresses its outrage that the systematic practice of rape has been used as a weapon of war and an instrument of ethnic cleansing against the women and children in the Republic of Bosnia and Herzegovina;

3. Reaffirms that rape in the conduct of armed conflict constitutes a war crime and under certain circumstances it constitutes a crime against humanity and an act of genocide as defined in the Convention on the Prevention and Punishment of the Crime of Genocide, and calls upon States to take all measures required for the protection of women and children from such acts and to strengthen mechanisms to investigate and punish all those responsible and bring the perpetrators to justice;

4. Reaffirms that all persons who perpetrate or authorize crimes against humanity or other violations of international humanitarian law are individually responsible for those violations and that those in positions of authority who have failed to ensure that persons under their control comply with the relevant international instruments are accountable, together with the perpetrators;

5. Reminds all States of their obligation to cooperate with the International Tribunal for the Prosecution of Persons responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and the Office of the Prosecutor also in the

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10/ A/50/329.

investigation and prosecution of persons accused of using rape as a weapon of war;

6. Calls upon States to put experts, including experts in the prosecution of crimes of sexual violence, as well as adequate resources and services, at the disposal of the Chief Prosecutor and the Tribunal;

7. Urges all States and relevant organizations to continue to give serious consideration to the recommendations in the reports of the Special Rapporteur, in particular the recommendation for the provision for the continuation of necessary medical and psychological care to victims of rape within the framework of programmes to rehabilitate women and children traumatized by war, as well as to the provision of protection, counselling and support to victims and witnesses;

8. Recognizes the extraordinary suffering of the victims of rape and sexual violence and the necessity for an appropriate response to provide assistance to those victims, and expresses its concern in particular, for the welfare of those victims who are currently among the internally displaced or otherwise affected by the war and who have experienced severe trauma and require psychosocial and other assistance;

9. Urges all States and all relevant intergovernmental and non-governmental organizations, as well as the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees, the High Commissioner for Human Rights, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, to continue to provide to the victims of such rape and abuse appropriate assistance for their physical and mental rehabilitation, and to extend their support to the community-based assistance programmes;

10. Demands that the parties cooperate fully with the International Committee of the Red Cross, the High Commissioner for Human Rights, the Special Rapporteur and her staff, as well as other mechanisms of the Commission on Human Rights, the United Nations High Commissioner for Refugees, the monitoring and other missions of the European Union and the Organization for Security and Cooperation in Europe, including by providing full access;

11. Encourages the new Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia to continue to pay particular attention to the use of rape as a weapon of war, particularly in the Republic of Bosnia and Herzegovina;

12. Requests the Secretary-General to submit a report on the implementation of the present resolution;

13. Decides to continue its consideration of this question at its fifty-first session.